



House of Representatives

General Assembly

File No. 527

February Session, 2000

Substitute House Bill No. 5251

House of Representatives, April 11, 2000

The Committee on Appropriations reported through REP. DYSON of the 94th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

An Act Providing Assisted Living And Other Home Care Services For The Elderly.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (a) The Commissioner of Public Health shall allow
2 state-funded congregate housing facilities to provide assisted living
3 services through licensed assisted living services agencies, as defined
4 in section 19a-490 of the general statutes.

5 (b) In order to facilitate the development of services in state-funded
6 congregate housing facilities, the Commissioner of Public Health may
7 waive any provision of the regulations for assisted living services
8 agencies, as defined in section 19a-490 of the general statutes, which
9 provide services in state-funded congregate housing facilities. No
10 waiver of such regulations shall be made if the commissioner
11 determines that the waiver would: (1) Endanger the life, safety or
12 health of any resident receiving assisted living services in a state-
13 funded congregate housing facility; (2) impact the quality or provision

14 of services provided to a resident in a state-funded congregate housing
15 facility; (3) revise or eliminate the requirements for an assisted living
16 services agency's quality assurance program; (4) revise or eliminate the
17 requirements for an assisted living services agency's grievance and
18 appeals process; or (5) revise or eliminate the assisted living services
19 agency's requirements relative to a client's bill of rights and
20 responsibilities. The commissioner, upon the granting of a waiver of
21 any provision of such regulations, may impose conditions which
22 assure the health, safety and welfare of residents receiving assisted
23 living services in a state-funded congregate housing facility. The
24 commissioner may revoke such a waiver upon a finding that the
25 health, safety or welfare of any such resident is jeopardized.

26 (c) The Commissioner of Public Health may adopt regulations, in
27 accordance with the provisions of chapter 54 of the general statutes, to
28 implement the provisions of this section. Said commissioner may
29 implement the waiver of provisions as specified in subsection (b) of
30 this section while in the process of adopting criteria for the waiver
31 process in regulation form, provided notice of intent to adopt the
32 regulations is published in the Connecticut Law Journal within twenty
33 days after implementation. Such criteria shall be valid until the time
34 final regulations are effective.

35 Sec. 2. Section 8-206e of the general statutes, as amended by section
36 33 of public act 99-279, is repealed and the following is substituted in
37 lieu thereof:

38 (a) The Commissioner of Economic and Community Development
39 shall, within available appropriations, establish a demonstration
40 housing assistance and counseling program to offer advice on matters
41 concerning landlord and tenant relations and the financing of owner-
42 occupied and rental housing purchases, improvements and
43 renovations. The program shall provide: (1) Educational services
44 designed to inform landlords and tenants of their respective rights and

45 responsibilities; (2) dispute mediation services for landlords and
46 tenants; (3) information on securing housing-related financing,
47 including mortgage loans, home improvement loans, energy assistance
48 and weatherization assistance; and (4) such other housing-related
49 counseling and assistance as the commissioner shall provide by
50 regulations.

51 (b) The Commissioner of Economic and Community Development
52 may, within available appropriations, enter into a contract or contracts
53 to provide financial assistance in the form of grants-in-aid to nonprofit
54 corporations, as defined in section 8-39, to carry out the purposes of
55 subsection (a) of this section.

56 (c) The Commissioner of Economic and Community Development
57 shall adopt regulations in accordance with the provisions of chapter 54
58 to carry out the purposes of subsections (a) and (b) of this section.

59 [(d) Not later than January 1, 1989, the Commissioner of Economic
60 and Community Development shall submit to the General Assembly a
61 report containing an evaluation of the operation and effectiveness of
62 the demonstration program authorized under this section.]

63 (d) The Commissioner of Economic and Community Development
64 shall establish a demonstration program in one United States
65 Department of Housing and Urban Development, Section 202, elderly
66 housing development and one United States Department of Housing
67 and Urban Development, Section 236, elderly housing development to
68 provide assisted living services for persons who are residents of the
69 state.

70 (e) The Commissioner of Economic and Community Development
71 shall establish criteria for making disbursements under the provisions
72 of subsection (d) of this section which shall include, but are not limited
73 to: (1) Size of the United States Department of Housing and Urban
74 Development, Section 202 and Section 236, elderly housing

75 developments; (2) geographic location in which the development is
76 located; (3) anticipated social and health value to the resident
77 population; (4) Section 202 and Section 236 housing development's
78 designation as a managed residential community, as defined in section
79 19-13-D105 of the regulations of Connecticut state agencies; and (5) the
80 potential community development benefit to the relevant municipality.
81 Such criteria may specify who may apply for grants, the geographic
82 location determined to be eligible for grants, and the eligible costs for
83 which a grant may be made.

84 (f) The Commissioner of Economic and Community Development
85 may adopt regulations, in accordance with the provisions of chapter
86 54, to implement the provisions of subsections (d) and (e) of this
87 section.

88 Sec. 3. Section 17b-342 of the general statutes, as amended by section
89 12 of public act 99-279, is repealed and the following is substituted in
90 lieu thereof:

91 (a) The Commissioner of Social Services shall administer the
92 Connecticut home-care program for the elderly state-wide in order to
93 prevent the institutionalization of elderly persons (1) who are
94 recipients of medical assistance, (2) who are eligible for such
95 assistance, [or] (3) who would be eligible for medical assistance if
96 residing in a nursing facility, or (4) who meet the criteria for the state-
97 funded portion of the program under subsection (i) of this section. For
98 purposes of this section, a long-term care facility is a facility which has
99 been federally certified as a skilled nursing facility or intermediate care
100 facility. The commissioner shall make any revisions in the state
101 Medicaid plan required by Title XIX of the Social Security Act prior to
102 implementing the program. The annualized cost of the community-
103 based services provided to such persons under the program shall not
104 exceed sixty per cent of the weighted average cost of care in skilled
105 nursing facilities and intermediate care facilities. The program shall be

106 structured so that the net cost to the state for long-term facility care in
107 combination with the community-based services under the program
108 shall not exceed the net cost the state would have incurred without the
109 program. The commissioner shall investigate the possibility of
110 receiving federal funds for the program and shall apply for any
111 necessary federal waivers. A recipient of services under the program,
112 and the estate and legally liable relatives of the recipient, shall be
113 responsible for reimbursement to the state for such services to the
114 same extent required of a recipient of assistance under the state
115 supplement program, medical assistance program, temporary family
116 assistance program or food stamps program. Only a United States
117 citizen or a noncitizen who meets the citizenship requirements for
118 eligibility under the Medicaid program shall be eligible for home-care
119 services under this section, except a qualified alien, as defined in
120 Section 431 of Public Law 104-193, admitted into the United States on
121 or after August 22, 1996, or other lawfully residing immigrant alien
122 determined eligible for services under this section prior to July 1, 1997,
123 shall remain eligible for such services until July 1, 2001. Qualified
124 aliens or other lawfully residing immigrant aliens not determined
125 eligible prior to July 1, 1997, shall be eligible for services under this
126 section subsequent to six months from establishing residency until July
127 1, 2001. Notwithstanding the provisions of this subsection, any
128 qualified alien or other lawfully residing immigrant alien who is a
129 victim of domestic violence or who has mental retardation shall be
130 eligible for assistance pursuant to this section.

131 (b) The commissioner shall solicit bids through a competitive
132 process and shall contract with an access agency, approved by the
133 Office of Policy and Management and the Department of Social
134 Services as meeting the requirements for such agency as defined by
135 regulations adopted pursuant to subsection (e) of this section, that
136 submits proposals which meet or exceed the minimum bid
137 requirements. In addition to such contracts, the commissioner may use
138 department staff to provide screening, coordination, assessment and

139 monitoring functions for the program.

140 (c) The community-based services covered under the program shall
141 include, but not be limited to, the following services to the extent that
142 they are not available under the state Medicaid plan, occupational
143 therapy, homemaker services, companion services, meals on wheels,
144 adult day care, transportation, mental health counseling, [case] care
145 management, [and] elderly foster care, minor home modifications and
146 assisted living services provided in state-funded congregate housing
147 and in other assisted living pilot or demonstration projects established
148 under state law. Recipients of state-funded services and persons who
149 are determined to be functionally eligible for community-based
150 services who have an application for medical assistance pending shall
151 have the cost of home health and community-based services covered
152 by the program, provided they comply with all medical assistance
153 application requirements. Access agencies shall not use department
154 funds to purchase community-based services or home health services
155 from themselves or any related parties.

156 (d) Physicians, hospitals, long-term care facilities and other licensed
157 health care facilities may disclose, and, as a condition of eligibility for
158 the program, elderly persons, their guardians, and relatives shall
159 disclose, upon request from the Department of Social Services, such
160 financial, social and medical information as may be necessary to enable
161 the department or any agency administering the program on behalf of
162 the department to provide services under the program. Long-term care
163 facilities shall supply the Department of Social Services with the names
164 and addresses of all applicants for admission. Any information
165 provided pursuant to this subsection shall be confidential and shall not
166 be disclosed by the department or administering agency.

167 (e) The commissioner shall adopt regulations, in accordance with
168 the provisions of chapter 54, to define "access agency", to implement
169 and administer the program, to establish uniform state-wide standards

170 for the program and a uniform assessment tool for use in the screening
171 process and to specify conditions of eligibility.

172 (f) The commissioner may require long-term care facilities to inform
173 applicants for admission of the program established under this section
174 and to distribute such forms as he prescribes for the program. Such
175 forms shall be supplied by and be returnable to the department.

176 (g) The commissioner shall report annually, by June first, to the joint
177 standing committee of the General Assembly having cognizance of
178 matters relating to human services on the program in such detail,
179 depth and scope as said committee requires to evaluate the effect of the
180 program on the state and program participants. Such report shall
181 include information on (1) the number of persons diverted from
182 placement in a long-term care facility as a result of the program, (2) the
183 number of persons screened, (3) the average cost per person in the
184 program, (4) the administration costs, (5) the estimated savings, and (6)
185 a comparison between costs under the different contracts.

186 (h) An individual who is otherwise eligible for services pursuant to
187 this section shall, as a condition of participation in the program, apply
188 for medical assistance benefits pursuant to section 17b-260 when
189 requested to do so by the department and shall accept such benefits if
190 determined eligible.

191 (i) (1) On and after July 1, 1992, the Commissioner of Social Services
192 shall, within available appropriations, administer a state-funded
193 portion of the program for persons (A) who are sixty-five years of age
194 and older; (B) who are inappropriately institutionalized or at risk of
195 inappropriate institutionalization; (C) whose income is less than or
196 equal to the amount allowed under the federally funded portion of the
197 program established pursuant to subsection (a) of this section; and (D)
198 whose assets, if single, do not exceed the minimum community spouse
199 protected amount pursuant to Section 4022.05 of the department's
200 uniform policy manual or, if married, the couple's assets do not exceed

201 one hundred fifty per cent of said community spouse protected
202 amount.

203 [(2) The commissioner shall establish a sliding fee scale for required
204 contributions to the cost of services provided under the program for
205 program participants whose income is equal to or greater than one
206 hundred fifty per cent of the federal poverty level. The sliding fee scale
207 shall be based on a formula which establishes the midpoint of each
208 twenty-five per cent income increase over the poverty level and
209 assesses a fee based on a percentage of the midpoint for all eligible
210 persons whose income is within that range. The percentage of the
211 midpoint shall start at eleven per cent and shall increase by one per
212 cent for each income range.]

213 (2) Any person whose income exceeds two hundred per cent of the
214 federal poverty level shall contribute to the cost of care in accordance
215 with the methodology established for recipients of medical assistance
216 pursuant to Section 5035 of the department's uniform policy manual.

217 (3) On and after June 30, 1992, the program shall serve persons
218 receiving state-funded home and community-based services from the
219 department, persons receiving services under the promotion of
220 independent living for the elderly program operated by the
221 Department of Social Services, regardless of age, and persons receiving
222 services on June 19, 1992, under the home care demonstration project
223 operated by the Department of Social Services. Such persons receiving
224 state-funded services whose income and assets exceed the limits
225 established pursuant to subdivision (1) of this subsection may continue
226 to participate in the program, but shall be required to pay the total cost
227 of care, including case management costs.

228 (4) Services shall not be increased for persons who received services
229 under the promotion of independent living for the elderly program
230 over the limits in effect under said program in the fiscal year ending
231 June 30, 1992, unless a person's needs increase and the person is

232 eligible for Medicaid.

233 (5) The annualized cost of services provided to an individual under
234 the state-funded portion of the program shall not exceed fifty per cent
235 of the weighted average cost of care in nursing homes in the state,
236 except an individual who received services costing in excess of such
237 amount under the Department of Social Services in the fiscal year
238 ending June 30, 1992, may continue to receive such services, provided
239 the annualized cost of such services does not exceed eighty per cent of
240 the weighted average cost of such nursing home care. The
241 commissioner may allow the cost of services provided to an individual
242 to exceed the maximum cost established pursuant to this subdivision
243 in a case of extreme hardship, as determined by the commissioner,
244 provided in no case shall such cost exceed that of the weighted cost of
245 such nursing home care.

246 (j) The Commissioner of Social Services may implement revised
247 criteria for the operation of the program while in the process of
248 adopting such criteria in regulation form, provided the commissioner
249 prints notice of intention to adopt the regulations in the Connecticut
250 Law Journal within twenty days of implementing the policy. Such
251 criteria shall be valid until the time final regulations are effective.

252 Sec. 4. Subsection (a) of section 17b-347e of the general statutes, as
253 amended by section 22 of public act 99-279, is repealed and the
254 following is substituted in lieu thereof:

255 (a) The Commissioner of Social Services, in collaboration with the
256 Commissioner of Economic and Community Development and the
257 Connecticut Housing Finance Authority, shall establish a
258 demonstration project to provide subsidized assisted living services, as
259 defined in section 19-13-D105 of the regulations of Connecticut state
260 agencies, for persons residing in affordable housing, as defined in
261 section 8-39a. The demonstration project shall be conducted in at least
262 three municipalities to be determined by the Commissioner of Social

263 Services. The demonstration project may accept applications for up to
264 three years from June 8, 1998, and shall be limited to a maximum of
265 [three] five hundred subsidized dwelling units which may include
266 new construction or the rehabilitation and conversion of existing units
267 to subsidized dwelling units under the demonstration project.
268 Applicants for such subsidized assisted living services shall be subject
269 to the same eligibility requirements as the Connecticut home care
270 program for the elderly pursuant to section 17b-342, as amended by
271 this act.

Statement of Legislative Commissioners:

In the first sentence of subsection (b) of section 1, the words "any provision" were substituted for "certain provisions" for accuracy and consistency.

HS Committee Vote: Yea 18 Nay 0 JFS C/R APP

APP Committee Vote: Yea 50 Nay 0 JFS-LCO

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Significant Cost, Potential Savings

Affected Agencies: Departments of Social Services, Public Health,
Economic and Community Development

Municipal Impact: None

Explanation**State Impact:**

This bill makes changes necessary to provide assisted living services to state and federally funded elderly congregate housing facilities. There are currently 24 state-funded congregate housing facilities in the state, with approximately 980 total units. Based on an existing assisted living pilot program, approximately one-third of congregate housing residents will require assisted living services at an additional cost of \$1,250 per person, per month. This indicates an annualized cost of these services of approximately \$4.9 million. Assuming that DSS obtains a waiver allowing 50% federal reimbursement for Medicaid eligible individuals, the net annual cost to the state could be reduced to \$2.45 million. The provision of assisted living services may also result in savings in the Medicaid funded long-term care program by delaying more costly nursing home placements (such care currently costs approximately \$3,750 per month).

The House version of the Appropriations Act contains an additional

\$803,088 under the Department of Economic and Community Development to implement this program. The Senate version of the Appropriations Act includes \$800,000 in FY00 surplus funds for this program. Both versions assume a gradual implementation of this program beginning October 1, 2000. It is expected that the Department of Public Health can implement necessary regulations, as required by this bill, within its anticipated resources.

This bill also expands eligibility for the Connecticut Home Care program, allowing individuals to earn up to \$75,000. Such individuals would be required to pay a portion of their income about 200% of the federal poverty level in order to defray the state cost of their care. This expansion is expected to cost approximately \$3.6 million. The House version of the Appropriations Act includes \$3.6 million under the Department of Social Services for this expansion. The Senate version of the Appropriations Act did not include funds for this expansion. However, the Senate did include \$1 million in FY00 surplus funds to index the eligibility guideline for the Connecticut Homecare Program.

The bill also allows the Connecticut Home Care program to pay for minor residential modifications that may help an individual to continue to receive care in the community rather than a nursing home. The House version of the Appropriations Act contains \$90,000 for this provision. The Senate version of the Appropriations Act contains no funding for this provision.

OLR Bill Analysis

sHB 5251

AN ACT PROVIDING ASSISTED LIVING AND OTHER HOME CARE SERVICES FOR THE ELDERLY.**SUMMARY:**

This bill:

1. changes financial eligibility requirements in the Connecticut Home Care Program for Elders (CHCPE),
2. expands CHCPE services,
3. allows the Department of Public Health (DPH) to waive Assisted Living Service Agency (ALSA) regulations so congregate housing facilities can provide assisted living services, and
4. expands the existing assisted living demonstration program and establishes two new programs.

The bill also makes a technical change to the CHCPE statute and removes an obsolete reference from the housing statute.

EFFECTIVE DATE: October 1, 2000

CHCPE EXPANSION***Eligibility Rules***

The CHCPE is a three-tiered program administered by the Department of Social Services (DSS). It provides a range of home and community-based services to frail elders with varying levels of need. Two portions of the program, for elders not disabled enough for nursing home admission, and some who are, are solely state-funded. The third receives federal matching funds under a waiver of federal Medicaid program rules. It covers nursing-home eligible people whose care would be paid for by Medicaid if they were admitted.

Currently, participants in all three programs must have gross incomes of no more than \$1,536 per month (300% of the Social Security Income (SSI) benefit). In the state-funded programs, asset limits are \$16,824 for single people and \$24,228 for couples. The federal waiver program's asset limit is \$1,600.

The bill eliminates the gross income test in all three tiers. In the federally funded portion, it permits those eligible for nursing home admission and for Medicaid if they were admitted, to "spend down" and remain at home. They are eligible for CHCPE so long as their countable income is less than the cost of nursing home care, which DSS currently sets at \$3,815 per month. Current rules requiring them to contribute most of their income over 200% of the federal poverty level (or \$16,700) towards their care costs continue to apply.

Under current law, unchanged by the bill, the state-funded portions of CHCPE have the same income limits as the federally funded program. Thus, the bill's increased income limits in the federal waiver portion will apply in the state programs as well. The bill eliminates the existing sliding scale fee DSS charges some people enrolled in the state-funded programs and appears to replace it with the formula currently used to assess care costs against people enrolled in the Medicaid waiver portion of the program (see COMMENT).

DSS must apply to the federal Health Care Financing Administration for a Medicaid plan waiver to cover this new eligibility group.

Additional Services

Under the bill, CHCPE covers minor home modifications and assisted living services offered in state-funded congregate housing and in other statutory assisted living pilot or demonstration projects. Services currently covered under CHCPE (occupational therapy, homemaker services, companion services, meals on wheels, adult day care, transportation, mental health counseling, case management, and elderly foster care) continue to be available under the bill. (It is unclear under the bill whether assisted living services are for all CHCPE enrollees or only those living in congregate or elderly housing projects that offer them.)

ALSA REGULATION WAIVERS

The bill allows state-funded congregate housing facilities to provide assisted living services through ALSAs without having to meet all existing regulatory requirements. For example, they apparently do not have to provide all of the core services required of managed residential communities that offer on-site ALSA services.

The bill permits the DPH commissioner to waive some ALSA regulations for agencies that provide services in congregate housing facilities. But he cannot permit waivers that he determines would:

1. endanger the life, safety, or health of any resident receiving assisted living services;
2. impact the quality or provision of services to any congregate housing resident; or
3. revise or eliminate an ALSA's quality assurance program, grievance and appeals process, or clients' bill of rights and responsibilities.

He may impose other conditions to protect residents' health, safety, and welfare when he waives a regulatory requirement. He may also revoke a waiver if he finds that it jeopardizes their health, safety, or welfare.

The bill permits the commissioner to develop interim criteria for waivers while adopting regulations if he publishes a notice of intent to adopt regulations in the *Connecticut Law Journal* within 20 days of implementing interim criteria. Interim criteria remain in effect until final regulations are effective.

EXISTING DEMONSTRATION PROGRAM EXPANSION

The bill increases, from 300 to 500, the number of units in the existing congregate housing assisted living services demonstration project. It specifies that these, and the previously designated units, can be newly constructed, rehabilitated, or converted from existing housing stock.

DEMONSTRATION PROGRAMS IN FEDERALLY FUNDED HOUSING

The bill requires the Department of Community and Economic Development (DECD) commissioner to establish an assisted living demonstration program in one elderly housing development administered under the U.S. Housing and Urban Development's Section 202 program, and one under its Section 236 program. He must establish selection criteria and may adopt implementing regulations. The criteria must include:

1. the housing development's size and location,
2. anticipated social and health value to its residents,
3. whether it has been designated as a managed residential community, and
4. the potential community development benefit to the relevant municipality.

The criteria may also specify who may apply for program grants, how they can use the money, and the geographic location of eligible housing developments.

BACKGROUND

CHCPE

CHCPE provides a range of home health and non-medical services to persons age 65 and older who meet its income, asset, and functional eligibility standards. People enrolled in CHCPE's state-funded programs must contribute to their care costs when their gross annual incomes are \$12,360 per year or more. DSS calculates their contributions using a sliding scale. Participants in the federal waiver program with income at or above \$16,700 (200% of the federal poverty level) contribute all excess income, with a few exceptions. Income attributable to spouses or other family members is not counted, although in some circumstances some of an applicant or enrollee's

income may be attributed to a community spouse to ensure her a minimum income.

Medicaid Spend Down

“Spend down” refers to a method of qualifying for Medicaid health care coverage. To be Medicaid eligible, individuals must meet income and asset requirements. Individuals who have high medical bills but who do not meet income requirements can become Medicaid eligible by paying their medical bills and therefore reducing, or “spending down” their income to meet eligibility requirements.

Congregate Housing

Congregate housing is a type of subsidized elderly housing open to people age 62 and over. It consists of independent living assisted by congregate meals, housekeeping, and personal services. It is intended for people who have temporary or periodic difficulties with one or more essential activities of daily living, such as eating, bathing, grooming, or dressing.

Assisted Living Services

Under current law and regulations, assisted living services can generally be offered only by “managed residential communities” (MRCs). MRCs are not licensed by the state, but must meet DPH regulations that specify core services the communities themselves must provide in order to offer their residents assisted living services. The assisted living services must be provided by DPH-licensed ALSAs. St. Jude’s Congregate Housing in Norwich has been overating an assisted living services pilot program for two years. The 300-unit pilot program (which the bill expands to 500 units) was authorized by legislation in 1998 and modified in 1999. It is currently planned for five locations in the state and expected to start operating in 2001.

Related Bill

sSB 2, favorably reported by the Aging and Human Services committees, requires DSS to seek a federal waiver to make assisted living services available to qualifying congregate housing residents. It

requires them to contribute to their care costs in some cases, but uses a different formula than under this bill. It allows the DECD commissioner to waive assisted living regulations in the same manner as under this bill.

COMMENT

Contribution Rules Unclear

The bill specifies that CHCPE participants with incomes over 200% of the federal poverty level will be required to contribute to the costs of care "in accordance with the methodology established for recipients of medical assistance pursuant to Section 5035 of the department's uniform policy manual." That section of the manual, however, has several different methodologies for calculating Medicaid recipients' contribution rates.

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute Change of Reference

Yea 18 Nay 0

Appropriations Committee

Joint Favorable Report

Yea 50 Nay 0